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 10 UNITED AGRI PRODUCTS, INC. and UAP DISTRIBUTION, INC.

11

12 **UNITED STATES DISTRICT COURT**
 13 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
 14 **SAN FRANCISCO DIVISION**

16 KEN KUNZLER

17 Plaintiff,

18 v.

19 UNITED AGRI PRODUCTS, INC., UAP
 DISTRIBUTION, INC., and DOES 1
 through 25, inclusive,

20 Defendants.

21 CASE NO. C 07-03555 EMC

22 **JOINT MOTION TO CONTINUE THE**
DEADLINES FOR MEDIATION AND
THE SCHEDULING CONFERENCE

23 Removal Filed: July 10, 2007

24 Trial Date: None Set

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 COME NOW Plaintiff Ken Kunzler and Defendant UAP Distribution, Inc. (collectively the
 "Parties"), pursuant to ADR Local Rule 6.5 and Civil Local Rule 7, and hereby request that this Court
 enter this proposed order continuing the deadline for mediation until February 6, 2007, postponing the
 date of the January 23, 2008 telephonic case management conference for thirty (30) days or more, and
 postponing the deadline for the updated case management statement until five (5) days before the date
 of the rescheduled case management conference, stating as follows:

1 1. On September 28, 2007, this Court ordered this case to mediation and further ordered
2 that mediation be completed within ninety (90) days (or, by December 27, 2007). See Order (Sept.
3 28, 2007) [Docket No. 30].

4 2. Additionally, this Court ordered that the Parties would be permitted to take four (4)
5 depositions each prior to mediation. See Case Management and Pretrial Order for Court Trial (Oct.
6 26, 2007) (hereinafter "CMO") [Docket No. 36].

7 3. The Parties have been working diligently to prepare for mediation and have engaged
8 in written and third-party discovery, as also authorized by the Court. See CMO. However, due to
9 attorney schedules, party and non-party witness schedules, and the Thanksgiving holiday, the Parties
10 were not able to schedule the depositions authorized by this Court until the week of December 10,
11 2007.

12 4. Because of the deposition dates and the December holiday season, and despite their
13 significant efforts, the Parties will not be prepared to mediate the case by December 27, 2007, the
14 current deadline for completing the mediation.

15 5. On November 8, 2007, the Parties spoke with mediator Sam Barnum regarding the case
16 and a date for the mediation. During that call, the Parties explained the issues relating to scheduling.
17 The mediator agreed that it would make sense for the Parties to seek a short continuance of the
18 mediation deadline, such that they would be in a position to conduct a meaningful mediation.

19 6. Based on the December holiday season and the schedules of the attorneys and the
20 mediator, the first date upon which the Parties and the mediator were able to schedule a mediation was
21 February 6, 2007. The Parties and the mediator have tentatively reserved February 6, 2007 as a date
22 for the mediation, pending the approval of this Court of a short extension of the deadline for
23 mediation.

24 7. Based on the foregoing, the Parties respectfully request that this Court continue the
25 mediation deadline until February 6, 2007.

26 8. Continuing the mediation deadline until February 6, 2007, will leave ample time for
27 discovery, as the non-expert discovery and expert disclosure deadline is currently set for June 9, 2008.
28 See CMO. Thus, continuing the mediation deadline until February 6, 2007 will not delay the case or

1 necessitate a change in any deadlines (with the exception of the updated joint case management state
 2 and case management conference discussed below) or the trial date.

3 9. The Parties also are scheduled to file an updated joint case management statement by
 4 January 16, 2008 in anticipation of a telephonic case management conference scheduled for January
 5 23, 2008. See CMO.

6 10. The Parties believe that this Court wants to hear from them after the mediation occurs.
 7 Therefore, should this Court grant the Parties' request to continue the mediation deadline until
 8 February 6, 2007, the Parties further respectfully request that this Court postpone the date of the case
 9 management conference for thirty (30) days or more and postpone the deadline for the updated joint
 10 case management statement until five (5) days before the date of the rescheduled case management
 11 conference.

12 WHEREFORE, the Parties respectfully request that this Court enter the proposed order
 13 continuing the deadline for mediation until February 6, 2007, postponing the deadline for the case
 14 management conference for thirty (30) days or more, and postponing the deadline for the updated joint
 15 case management statement until five (5) days before the date of the rescheduled case management
 16 conference.

17
 18 DATED: November 21, 2007 THOMAS S. BRIGHAM, ESQ.
 19 BROOKE A. BRIGHAM, ESQ.

20 By: /s/ Thomas S. Brigham
 21 Thomas S. Brigham, Esq.
 22 Brooke A. Brigham, Esq.
 23 Attorneys for Plaintiff KEN KUNZLER

24
 25 DATED: November 21, 2007 LEWIS BRISBOIS BISGAARD & SMITH LLP

26 By: /s/ Helen Lee Greenberg
 27 Shawn A. Toliver
 28 Helen Lee Greenberg
 29 Attorneys for Defendants UNITED AGRI
 30 PRODUCTS, INC., and UAP DISTRIBUTION, INC.

31
 32 DATED: November 21, 2007 FAEGRE & BENSON LLP

33 By: /s/ Ross W. Johnson

1 Ross W. Johnson*
2 Carolyn A. Gunkel*
3 Attorneys for Defendants UNITED AGRI
4 PRODUCTS, INC., and UAP DISTRIBUTION, INC.

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